

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BRIDGETTE A TOJEK,

Plaintiff,

v.

DIANE HARRIS,

Defendant.

19-CV-1470-LJV-MJR
DECISION & ORDER

On October 16, 2019, the *pro se* plaintiff, Bridgette A Tojek, filed this action in state court alleging, among other things, libel, defamation, and malicious abuse of process. Docket Item 1-5. On October 31, 2019, the defendant, Diane Harris, removed the action to this Court. Docket Item 1.

On December 14, 2019, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 13. On December 18, 2019, Tojek moved for default judgment. Docket Item 16. Harris did not respond to Tojek's motion.

On June 26, 2020, Judge Roemer issued a Report and Recommendation ("R&R") finding that the Tojek's motion should be denied. Docket Item 21. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party

objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's R&R as well as Tojek's submission to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to deny Tojek's motion for default judgment.

For the reasons stated above and in the R&R, Tojek's motion for default judgment, Docket Item 16, is DENIED. The case is referred back to Judge Roemer for further proceedings consistent with the referral order of December 14, 2019, Docket Item 13.

SO ORDERED.

Dated: August 4, 2020
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE